

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 3rd September, 1962:—

BILL No. 88 OF 1962

A Bill further to amend the Electricity (Supply) Act, 1948.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Electricity (Supply) Amendment Short title, Act, 1962.

5 2. After section 20 of the Electricity (Supply) Act, 1948, the following section shall be inserted, namely:—

Insertion of
new section
20A.

10 “20A. Without prejudice to the generality of the power of the Board to acquire any property, the Board may acquire from the State Government on lease any project relating to the generation of electricity and all transmission lines and other works connected with such project on such terms and conditions, including terms and conditions relating to the operation and maintenance of the project, as may be agreed upon between the State Government and the Board.”

Power to
acquire
projects,
etc., on
lease.

STATEMENT OF OBJECTS AND REASONS

The Koyna Hydro-Electric Project in the State of Maharashtra is being financed by a loan from the International Bank for Reconstruction and Development. Although the project is being executed by the State Government of Maharashtra departmentally, the intention was to transfer it to the State Electricity Board on completion pursuant to the loan agreement with the International Bank.

2. The loan agreement with the International Bank provides that the rates for the sale of electricity generated by the project would be fixed at such level as would ensure that the earnings from the operation of the project would after providing for all operating expenses, including taxes, adequate depreciation, interest and repayment of all loans and advances, allow for a reasonable contribution towards the cost of expansion of power facilities of the Electricity Board. An out and out transfer of the project to the Board would involve transfer to the Board of the liability of the State Government regarding the payment of interest and principal of the loan. The Electricity (Supply) Act, 1948, does not permit such payment from the revenues of the Board and hence such payment cannot be taken into account in the fixation of the rates of supply. An outright transfer of the project to the Board would, therefore, stand in the way of compliance with the stipulations in the loan agreement with the Bank. It is proposed to overcome the difficulty by empowering the Board to acquire the project on lease. Having regard to the scheme of the Act, however, doubts have been expressed as to the power of the Board to operate any project on lease. An express provision is, therefore, considered necessary in this respect. Hence this Bill.

HAFIZ MOHD. IBRAHIM.

NEW DELHI;

The 25th August, 1962.

*BILL No. 91 OF 1962

A Bill to provide for the incorporation and regulation of corporations for the purpose of warehousing of agricultural produce and certain other commodities and for matters connected therewith.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Warehousing Corporations Act, 1962. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Govern-
10 ment may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) “agricultural produce” means any of the following classes of commodities, namely:—
- (i) foodstuffs, including edible oil-seeds;
- 15 (ii) cattle fodder, including oil-cakes and other concentrates;
- (iii) raw cotton, whether ginned or unginned, and cotton seed;

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

(iv) raw jute; and

(v) vegetable oils;

(b) "appropriate Government" means in relation to the Central Warehousing Corporation, the Central Government, and in relation to a State Warehousing Corporation, the State Government; 5

(c) "Central Warehousing Corporation" means the Central Warehousing Corporation established under section 3;

(d) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or under any other law with respect to co-operative societies for the time being in force in any State, which is engaged in the processing, marketing, storage, export or import of agricultural produce or any notified commodity or in insurance business and includes a co-operative land mortgage bank; 15 2 of 1912.

(e) "notified commodity" means any commodity (other than agricultural produce) which the Central Government may, by notification in the Official Gazette, declare to be a notified commodity for the purposes of this Act, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution; 20

(f) "prescribed" means prescribed by rules made under this Act;

(g) "recognised association" means an association which is for the time being recognised by the Central Government under section 6 of the Forward Contracts (Regulation) Act, 1952; 74 of 1952. 25

(h) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934.

(i) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934; 2 of 1934. 30

(j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(k) "State Warehousing Corporation" means a Warehousing Corporation for a State established or deemed to be established under this Act; 35

(l) "Warehousing Corporation" means a Warehousing Corporation established or deemed to be established under this Act; and

(m) "year" means the financial year.

5

CHAPTER II

THE CENTRAL WAREHOUSING CORPORATION

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Central Government shall establish a Corporation by the name
10 of the Central Warehousing Corporation which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract, and may, by the said name, sue and be sued.

The Central Warehousing Corporation.

(2) The head-office of the Central Warehousing Corporation shall
15 be at New Delhi.

4. (1) The authorised share capital of the Central Warehousing Corporation shall be twenty crores of rupees divided into two hundred thousand shares of the face value of one thousand rupees each; any shares remaining to be issued may be issued, with the sanction
20 of the Central Government from time to time, as and when the Central Warehousing Corporation may deem fit.

Share capital and shareholders.

(2) The Central Government shall subscribe for forty per cent. of the share capital issued at any time and the remaining sixty per cent. of the share capital may be subscribed for, within such period
25 and in such proportion as may be specified by the Central Government, by the following institutions, namely:—

- (a) the State Bank;
- (b) other scheduled banks;
- (c) co-operative societies;
- 30 (d) insurance companies, investment trusts and other financial institutions;
- (e) recognised associations and companies dealing in agricultural produce or any notified commodity.

(3) If any portion of the sixty per cent. of the share capital referred to in sub-section (2) remains unallotted, it may be subscribed for by the Central Government and the State Bank in such proportion as may be agreed upon between them and in default of such agreement, as may be determined by the Central Government.

(4) The shares of the Central Warehousing Corporation shall
40 not be transferable except to the Central Government, the State

Bank, any scheduled bank, any insurance company, any investment trust or other financial institution or any co-operative society or any recognised association or company dealing in agricultural produce or any notified commodity, in accordance with the regulations made by the Central Warehousing Corporation under this Act. 5

Shares to be guaranteed by Central Government and to be trust or approved securities.

5. (1) The shares of the Central Warehousing Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Central Government, by notification published in the Official Gazette, at the time of the issue of the 10 shares.

(2) Notwithstanding anything contained in the Acts mentioned in this sub-section, the shares of the Central Warehousing Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and also to be 15 approved securities for the purpose of the Insurance Act, 1938 and the Banking Companies Act, 1949. 2 of 1882. 4 of 1938. 10 of 1949.

Management of Central Warehousing Corporation.

6. (1) The general superintendence and management of the affairs and business of the Central Warehousing Corporation shall vest in a board of directors who, with the assistance of an Execu- 20 tive Committee and a managing director, may exercise all the powers and discharge all the functions which may be exercised or discharged by the Central Warehousing Corporation under this Act.

(2) The board of directors shall act on business principles having regard to public interest and shall be guided by such ins- 25 tructions on questions of policy as may be given to them by the Central Government.

(3) If any doubt arises as to whether a question is or is not a question of policy, the decision of the Central Government shall be final. 30

Directors.

7. (1) The board of directors referred to in section 6 shall consist of the following, namely:—

(a) six directors to be nominated by the Central Government;

(b) one director to be nominated by the National Co-opera- 35 tive Development Corporation established under the National Co-operative Development Corporation Act, 1962;

(c) one director to be nominated by the State Bank;

(d) one director to be elected by other scheduled banks;

(e) one director to be elected by co-operative societies; 40

(f) one director to be elected by insurance companies, investment trusts and other financial institutions, recognised associations and companies dealing in agricultural produce or notified commodities;

- 5 (g) a managing director, appointed by the Central Government in consultation with the directors referred to in clauses (a) to (f):

Provided that the three directors to be elected under clauses (d), (e) and (f) may, for the first constitution of the board of directors, 10 be nominated by the Central Government in such manner as to give representation to each class of institutions (whether they have become shareholders of the Corporation or not) referred to in those clauses, but a director so nominated shall hold office only until he is replaced by a director elected as provided in that clause, and the 15 director so elected shall hold office only for so long as the director replaced would have held office had he not been replaced.

(2) The directors referred to in clauses (d), (e) and (f) of sub-section (1) shall be elected in the prescribed manner.

(3) If, within the period prescribed in this behalf, or within such 20 further period as the Central Government may allow, the institutions referred to in clause (d) or clause (e) or clause (f) of sub-section (1) fail to elect a director, the Central Government may nominate a director to fill the vacancy.

(4) The board of directors shall have a Chairman and a Vice- 25 Chairman who shall be appointed by the Central Government from among the directors.

(5) The managing director shall—

(a) exercise such powers and perform such duties as the board of directors or the Central Warehousing Corporation may 30 entrust or delegate to him; and

(b) receive such salary and allowances as the Central Warehousing Corporation may, with the approval of the Central Government, fix.

(6) The directors of the Central Warehousing Corporation other 35 than the managing director shall be entitled to receive by way of remuneration such sums as the Central Warehousing Corporation may, with the approval of the Central Government, fix:

Provided that no official director shall be entitled to receive any remuneration other than the allowances, if any, admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling casual vacancies among, the directors shall be such as may be prescribed. 5

Disqualifica-
tion for
office of
director of,
the Central
Warehousing
Corporation.

8. A person shall be disqualified for being chosen as, and for being, a director of the Central Warehousing Corporation—

(i) if he is found to be a lunatic or becomes of unsound mind; or

(ii) if he is, or at any time has been, adjudicated insolvent or 10 has suspended payment of his debts or has compounded with his creditors; or

(iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has 15 elapsed from the date of expiry of the sentence; or

(iv) if he has been removed or dismissed from the service of Government or a Corporation owned and controlled by the Government; or

(v) except in the case of the managing director, if he is a 20 salaried official of the Central Warehousing Corporation or any State Warehousing Corporation; or

(vi) if he is personally interested in any subsisting contract made with, or in any work being done for the Central Warehousing Corporation except as a shareholder (other than a 25 director) in any public company as defined in the Companies Act, 1956:

1 of 1956.

Provided that where any such person is a shareholder, he shall disclose to the Central Warehousing Corporation the nature and extent of shares held by him in such company. 30

Removal of
directors
from office.

9. (1) The Central Government may, at any time in consultation with the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

(2) The board of directors may remove from office any director 35 who—

(a) is or has become subject to any of the disqualifications mentioned in section 8; or

(b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient in the opinion of the board, to exonerate his absence.

- 5 10. (1) The Central Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

Appoint-
ment of
officers, etc.,
and their
conditions of
service.

- (2) Every person employed by the Central Warehousing Corporation under this Act shall be subject to such conditions of service
10 and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

11. Subject to the provisions of this Act, the Central Warehousing Corporation may—

Functions of
Central
Warehousing
Corporation.

- 15 (a) acquire and build godowns and warehouses at such suitable places in India as it thinks fit;

(b) run warehouses for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities offered by individuals, co-operative societies and other institutions;

- 20 (c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;

(d) subscribe to the share capital of a State Warehousing Corporation;

- 25 (e) act as agent of the Government for the purposes of the purchase, sale, storage and distribution of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and

(f) carry out such other functions as may be prescribed.

- 30 12. (1) There shall be an Executive Committee of the Central Warehousing Corporation which shall consist of—

Executive
Committee.

(a) the Chairman and the Vice-Chairman of the board of directors;

(b) the managing director; and

- 35 (c) two other directors chosen by the Corporation in the prescribed manner.

(2) The Chairman and the Vice-Chairman of the board of directors shall be the Chairman and the Vice-Chairman respectively of the Executive Committee.

(3) Subject to the general control, direction and superintendence of the board of directors, the Executive Committee shall be competent to deal with any matter within the competence of the Central Warehousing Corporation. 5

Meetings
of the Cor-
poration.

13. (1) The annual general meeting of the Central Warehousing Corporation (hereinafter referred to as the annual general meeting) shall be held every year either at its head-office or at any other office of the Corporation within six months of the close of the financial year, and any other general meeting may be convened by the board of directors at any other time. 10

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the board of directors on the working of the Corporation during the year under report, as well as the auditors' report on the annual balance-sheet and accounts. 15

(3) The board of directors of the Central Warehousing Corporation shall, on the requisition of one-third of the number of shareholders of the Corporation, call a special meeting of the Corporation. 20

(4) The requisition for a special meeting under sub-section (3) shall state the object of the meeting, and shall be signed by the requisitionists and deposited at the head-office of the Corporation, and may consist of several documents in like form each signed by one or more requisitionists. 25

(5) If the board of directors of the Central Warehousing Corporation do not proceed within twenty-one days from the date of the requisition being so deposited to cause the special meeting to be called, the requisitionists, or a majority of them, may, themselves call the meeting, but in either case, the meeting so called shall be held within three months from the date of the deposit of the requisition. 30

(6) The Central Warehousing Corporation shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Central Warehousing Corporation under this Act. 35

14. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Central Warehousing Corporation for the purposes of either fund maintained by the Corporation—

Grants and loans by the Central Government.

5 (a) by way of grants, such sums of money as the Central Government may consider necessary; and

(b) by way of loans, such sums of money on such terms and conditions as the Central Government may determine.

(2) When making a payment under sub-section (1), the Central Government shall specify the fund for the purposes of which the payment is made.

15. The Central Warehousing Corporation shall maintain two separate funds, namely:—

Corporation to maintain two funds.

(a) the Central Warehousing Fund (hereinafter referred to as the Warehousing Fund); and

(b) the General Fund.

16. (1) To the Warehousing Fund shall be credited—

Warehousing Fund.

(a) all moneys and other securities transferred to the Central Warehousing Corporation under clause (c) of sub-section (2) of section 43; and

(b) such grants and loans as the Central Government may make for the purposes of the Warehousing Fund; and

(c) such sums of money as may, from time to time, be realised out of the loans made from the Warehousing Fund or from interest on loans or dividends on investments made from that fund.

(2) The Warehousing Fund shall be applied—

(a) for advancing loans to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of enabling them to subscribe to the share capital of State Warehousing Corporations;

(b) for advancing loans and granting subsidies to State Warehousing Corporations or to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of promoting the warehousing and storage of agricultural produce and notified commodities, otherwise than through co-operative societies.

General
Fund.

17. (1) To the General Fund shall be credited—

(a) all sums received by the Central Warehousing Corporation other than those referred to in sub-section (1) of section 16; and

(b) such grants and loans as the Central Government may make for the purposes of the General Fund.

(2) The General Fund shall be applied—

(a) for meeting the salary, allowances and other remuneration of the officers and other employees of the Central Warehousing Corporation; 10

(b) for meeting the other administrative expenses of the Corporation; and

(c) for carrying out the purposes of this Act.

CHAPTER III

STATE WAREHOUSING CORPORATIONS

15

State Ware-
housing
Corpora-
tions.

18. (1) The State Government may, by notification in the Official Gazette and with the approval of the Central Warehousing Corporation, establish a Warehousing Corporation for the State under such name as may be specified in the notification.

(2) A State Warehousing Corporation established under sub-section (1) shall be a body corporate by the name notified under that sub-section, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may, by the said name, sue and be sued. 20

(3) The head-office of a State Warehousing Corporation shall be at such place within the State as may be notified in the Official Gazette. 25

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), it shall not be necessary for the State Government to establish a Corporation under sub-section (1) where, under clause (g) of sub-section (2) of section 43, a Corporation is deemed to be established for that State under this Act. 30

19. (1) The authorised capital of a State Warehousing Corporation shall be such sum not exceeding two crores of rupees as may be prescribed, divided into shares of the face value of one hundred rupees each, of which such number as may be determined by the Corporation in consultation with the State Government shall be issued in the first instance and the remaining shares may be issued, from time to time, as and when the Corporation may deem fit after consultation with the Central Warehousing Corporation and with the sanction of the State Government.
- 10 (2) Of the share capital issued in the first instance and of any subsequent issue of such capital, the Central Warehousing Corporation shall, in any case where the State Government has subscribed for fifty per cent. of such capital, subscribe for the remaining fifty per cent. of the capital.
- 15 20. (1) The general superintendence and management of the affairs of a State Warehousing Corporation shall vest in a board of directors which shall consist of the following, namely:—
- Management of a State Warehousing Corporation.
- (a) five directors nominated by the Central Warehousing Corporation, of whom one shall be nominated in consultation with the State Bank and one at least shall be a non-official;
- 20 (b) five directors nominated by the State Government; and
- (c) a managing director, appointed by the State Government in consultation with the directors referred to in clauses (a) and (b) and with the previous approval of the Central Warehousing Corporation.
- 25 (2) The Chairman of the board of directors shall be appointed by the State Government from among the directors of the State Warehousing Corporation with the previous approval of the Central Warehousing Corporation.
- 30 (3) The managing director shall—
- (a) exercise such powers and perform such duties as the board of directors or the State Warehousing Corporation may entrust or delegate to him; and
- 35 (b) receive such salary and allowances as the State Warehousing Corporation may, in consultation with the Central Warehousing Corporation, and with the previous approval of the State Government, fix.
- (4) The board of directors shall act on business principles having regard to public interest and shall be guided by such instructions on

questions of policy as may be given to them by the State Government or the Central Warehousing Corporation.

(5) If any doubt arises as to whether a question is or is not a question of policy, or, if the State Government and the Central Warehousing Corporation give conflicting instructions, the matter shall be referred to the Central Government whose decision thereon shall be final. 5

(6) The directors of a State Warehousing Corporation, other than the managing director, shall be entitled to receive by way of remuneration such sums as may be prescribed: 10

Provided that no official director shall be entitled to receive any remuneration other than any allowances admissible to him under the rules regulating his conditions of service.

(7) The term of office of, and the manner of filling casual vacancies among, directors shall be such as may be prescribed. 15

Disqualifi-
cation for
office of
director
of the Cor-
poration.

21. A person shall be disqualified for being chosen as, and for being, a director of a State Warehousing Corporation—

(i) if he is found to be a lunatic or becomes of unsound mind; or

(ii) if he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or 20

(iii) if he is or has been convicted of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months, unless a period of five years has elapsed from the date of expiry of the sentence; or 25

(iv) if he has been removed or dismissed from service of Government or a corporation owned and controlled by the Government; or

(v) except in the case of the managing director, if he is a salaried official of the Central Warehousing Corporation or a State Warehousing Corporation; or 30

(vi) if he is personally interested in a subsisting contract made with, or in any work being done for, the State Warehousing Corporation except as a shareholder (other than a director) in any public company as defined in the Companies Act, 1956: 35

1 of 1956.

Provided that where any such person is a shareholder, he shall disclose to the Warehousing Corporation the nature and extent of the shares held by him in such company.

22. (1) The State Government may, at any time, with the previous approval of the Central Warehousing Corporation, remove the managing director from office after giving him a reasonable opportunity of showing cause against the proposed removal.

Removal of
directors
from office.

5 (2) The board of directors may remove from office any director who—

(a) is or has become subject to any of the disqualifications mentioned in section 21; or

10 (b) is absent without leave of the board of directors for more than three consecutive meetings of the board without cause sufficient, in the opinion of the board, to exonerate his absence.

23. (1) A State Warehousing Corporation may appoint such officers and other employees as it considers necessary for the efficient performance of its functions.

Appoint-
ment of
officers, etc.,
and their
conditions
of service.

(2) Every person employed by a State Warehousing Corporation under this Act shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations made by the Corporation under this Act.

20 24. Subject to the provisions of this Act, a State Warehousing Corporation may—

Functions
of the State
Warehousing
Corporation.

(a) acquire and build godowns and warehouses at such places within the State as it may, with the previous approval of the Central Warehousing Corporation, determine;

25 (b) run warehouses in the State for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;

30 (c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouses;

(d) act as an agent of the Central Warehousing Corporation or of the Government for the purposes of the purchase, sale, storage and distribution, of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;
35 and

(e) carry out such other functions as may be prescribed.

Executive
Committee.

25. (1) There shall be an Executive Committee of a State Warehousing Corporation which shall consist of—

- (a) the Chairman of the board of directors;
- (b) the managing director; and

(c) three other directors chosen in the prescribed manner, of whom one shall be a director referred to in clause (a) of sub-section (1) of section 20. 5

(2) The Chairman of the board of directors shall be the Chairman of the Executive Committee.

(3) Subject to any general or special directions as the board of directors may, from time to time, give, the Executive Committee shall be competent to deal with any matter within the competence of the State Warehousing Corporation. 10

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

15

Submission
of pro-
gramme of
activities
and financial
estimates.

26. (1) Every Warehousing Corporation shall prepare before the commencement of each year a statement of programme of its activities during the forthcoming year as well as a financial estimate in respect thereof.

(2) A statement prepared under sub-section (1) shall, not later than three months before the commencement of each year, be submitted for approval—

(a) in the case of the Central Warehousing Corporation, to the Central Government;

(b) in the case of a State Warehousing Corporation, to the Central Warehousing Corporation and the State Government. 25

(3) The statement and the financial estimate of a Warehousing Corporation referred to in sub-section (1) may, with the approval of the Central Government in the case of the Central Warehousing Corporation, or with the approval of the Central Warehousing Corporation and the State Government in the case of a State Warehousing Corporation, be revised by the Warehousing Corporation. 30

Borrowing
powers of
Warehousing
Corporation.

27. (1) A Warehousing Corporation may, in consultation with the Reserve Bank and with the previous approval of the appropriate Government, issue and sell bonds and debentures carrying interest for the purpose of raising funds: 35

Provided that the total amount of bonds and debentures issued and outstanding and of the other borrowings of the Corporation

shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation.

(2) A Warehousing Corporation may, for the purpose of carrying out its functions under this Act, borrow money—

- 5 (i) from the Reserve Bank, or
- (ii) from the State Bank, for such periods for which, and upon any of the securities against which, it is authorised to advance and lend moneys, under the provisions of the State Bank of India Act, 1955.

23 of 1955. 10 (3) Subject to the proviso to sub-section (1), the Central Warehousing Corporation may borrow money from the Central Government and a State Warehousing Corporation may borrow money from the State Government and the Central Warehousing Corporation on such securities and on such terms and conditions as may be
15 agreed upon between the borrowing corporation and the lender, in each case.

(4) The bonds and debentures of a Warehousing Corporation may be guaranteed by the appropriate Government as to the repayment of principal and the payment of interest at such rate as may be
20 fixed by the appropriate Government on the recommendation of the board of directors of the Corporation at the time the bonds or debentures are issued.

28. All moneys belonging to a Warehousing Corporation shall be deposited in the Reserve Bank or the State Bank or, subject to
25 any rules made under this Act, in any scheduled bank or co-operative bank. Deposit account.

29. A Warehousing Corporation may invest its funds in the securities of the Central or any State Government or in such other
manner as may be prescribed by the appropriate Government. Investment of funds.

30 30. (1) Every Warehousing Corporation shall establish a reserve fund out of its annual net profits. Disposal of profits.

(2) After making provision for bad and doubtful debts, depreciation on assets and all other matters which are usually provided for by companies registered and incorporated under the Companies
1 of 1956. 35 Act, 1956, a Warehousing Corporation may, out of its net annual profits, declare a dividend:

Provided that for so long as the reserve fund is less than the paid-up share capital of the Central Warehousing Corporation and until there has been repaid to the Central Government such sum,
40 if any, as that Government may have paid under a guarantee given in pursuance of sub-section (1) of section 5 or sub-section (4) of

section 27, the rate of such dividend, in the case of the Central Warehousing Corporation, shall not exceed the rate guaranteed by the Central Government under sub-section (1) of section 5.

Accounts
and audit
of Ware-
housing
Corporation.

31. (1) Every Warehousing Corporation shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed: 5

Provided that, in the case of the Central Warehousing Corporation, the accounts relating to the Warehousing Fund and the General Fund shall be maintained separately. 10

(2) The accounts of a Warehousing Corporation shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956. 1 of 1956.

(3) The said auditor shall be appointed by the appropriate Government on the advice of the Comptroller and Auditor-General of India. 15

(4) The auditor shall be supplied with a copy of the annual balance sheet and the profit and loss account of the Warehousing Corporation and it shall be his duty to examine them together with the accounts and vouchers relating thereto, and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may require from any officer of the Corporation such information and explanations as the auditor may think necessary for the performance of his duties as auditor. 20 25

(5) The auditor shall make a report to the shareholders on the accounts examined by him and on the annual balance sheet and the profit and loss account and in every such report, he shall state whether in his opinion the accounts give a true and fair view—

(a) in the case of the balance sheet, of the state of the Corporation's affairs at the end of its financial year, and 30

(b) in the case of the profit and loss account, of the profit or loss for its financial year, and in case he has called for any explanation or information from the officers, whether it has been given and whether it is satisfactory. 35

(6) The appropriate Government may, after consultation with the Comptroller and Auditor-General of India at any time issue directions

to the auditor requiring him to report to the appropriate Government upon the adequacy of measures taken by a Warehousing Corporation for the protection of its shareholders and creditors or upon the sufficiency of his procedure in auditing the accounts of the Corporation and may enlarge or extend the scope of the audit or direct that a different procedure in audit may be adopted or direct that any other examination may be made by the auditor if in the opinion of the appropriate Government public interest so requires.

(7) A Warehousing Corporation shall send a copy of every report of the auditor to the Comptroller and Auditor-General of India and to the Central Government at least one month before it is placed before the shareholders.

(8) Notwithstanding anything hereinbefore contained in this section, the Comptroller and Auditor-General of India may, either of his own motion or on a request received in this behalf from the appropriate Government, undertake in respect of a Warehousing Corporation such audit and at such time as he may consider necessary:

Provided that where the Central Government is required to make any payment on account of the guarantee given by it under subsection (1) of section 5, such audit shall be undertaken by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

(9) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of a Warehousing Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Corporation.

(10) The annual accounts of a Warehousing Corporation together with the audit report thereon shall be placed before the annual general meeting of the Corporation within six months of the close of the financial year.

(11) Every audit report under this section shall be forwarded to the appropriate Government within a month of its being placed before the annual general meeting and that Government shall as soon thereafter as may be cause the same to be laid before both Houses of Parliament or the Legislature of the State, as the case may be,

CHAPTER V

MISCELLANEOUS

Vacancies,
etc., not to
invalidate
acts and
proceedings
of Ware-
housing
Corpora-
tions.

32. No act or proceeding of a Warehousing Corporation shall be invalid by reason only of the existence of any vacancy among its directors or any defect in the constitution thereof. 5

Delegation.

33. A Warehousing Corporation may, by general or special order in writing, delegate to the Secretary or other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary for the efficient performance of its functions. 10

Voting
rights of
shareholders.

34. In any meeting of the shareholders of a Warehousing Corporation, every member shall have one vote in respect of each share held by him in the Corporation.

Disputes
between
Central
Warehousing
Corporation
and State
Warehousing
Corporation

35. If there is any difference of opinion between the Central Warehousing Corporation and a State Warehousing Corporation regarding their respective functions and powers under this Act, such difference shall be referred to the Central Government whose decision thereon shall be final. 15

Declaration
of fidelity
and secrecy.

36. Every director, auditor, officer or other employee of a Warehousing Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule. 20

Indemnity
of directors.

37. (1) Every director of a Warehousing Corporation shall be indemnified by the Corporation concerned against all losses and expenses incurred in the discharge of his duties except such as are caused by his own wilful act or default. 25

(2) A director of a Warehousing Corporation shall not be responsible for any other director or for any officer or other employee of the Corporation or for any loss or expense resulting to the Corporation by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the wrongful act of any person under obligation to the Corporation or by anything done in good faith in the execution of the duties of his office or in relation thereto. 30

Officers.

38. (1) Whoever, without the consent in writing of a Warehousing Corporation, uses the name of that Corporation in any prospectus or advertisement, shall be punishable with imprisonment which may 35

extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of any offence under sub-section (1) otherwise than on a complaint in writing by an officer authorised in this behalf by the Warehousing Corporation concerned.

43 of 1961.

39. For the purposes of the Income-tax Act, 1961, a Warehousing Corporation shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains:

Provisions relating to income-tax and super-tax.

10 Provided that, in the case of the Central Warehousing Corporation, any sum paid by the Central Government under the guarantee given in pursuance of sub-section (1) of section 5 or, in the case of a Warehousing Corporation, any sum paid by the Central or a State Government under any guarantee given in pursuance of sub-section 15 (4) of section 27 shall not be treated as income, profits and gains of a Warehousing Corporation, and any interest on the debentures or bonds issued by that Corporation out of such sums shall not be treated as expenditure incurred by it:

20 Provided further that in the case of any shareholder or debentureholder, such portion of a dividend or interest as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax-free within the meaning of section 86 of that Act.

25 40. No provision of law relating to the winding up of companies or corporations shall apply to a Warehousing Corporation and any such Corporation shall not be placed in liquidation save by order of the appropriate Government and in such manner as it may direct.

Winding up of Warehousing Corporations.

41. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

30 (2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the additional functions which a Warehousing Corporation may perform;

35 (b) the manner of nomination and election of the directors of the Central Warehousing Corporation and the period within which such directors shall be nominated or elected;

(c) the term of office of, and the manner of filling casual vacancies among, and the remuneration payable to, the directors of a Warehousing Corporation;

(d) the manner of choosing directors on the Executive Committee of a Warehousing Corporation;

(e) the authorised capital of a State Warehousing Corporation within the limit specified in sub-section (1) of section 19;

(f) the form of the annual statement of accounts and the balance-sheet to be prepared by a Warehousing Corporation;

(g) the deposit of moneys of a Warehousing Corporation in a scheduled bank or a co-operative bank;

(h) the manner of issuing shares of a Warehousing Corporation, the calls to be made in respect thereof, and all other matters incidental to the issue of shares;

(i) any other matter which has to be or may be prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of
Warehousing
Corpora-
tions to
make regu-
lations.

42. (1) A Warehousing Corporation may, with the previous sanction of the appropriate Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary for expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the conditions of service of, and the remuneration payable to, the officers and other employees of a Warehousing Corporation;

(b) the manner in which, and the conditions subject to which, shares of the Central Warehousing Corporation may be transferred;

(c) the manner in which meetings of a Warehousing Corporation and the Executive Committee thereof shall be convened, the fees for attending such meetings and the procedure to be followed thereat;

(d) the duties and conduct of officers and employees of a Warehousing Corporation;

(e) the powers and duties which may be entrusted or delegated to the managing director of a Warehousing Corporation;

5 (f) generally, the efficient conduct of the affairs of a Warehousing Corporation.

(3) The appropriate Government may, by notification in the Official Gazette, rescind any regulation which it has sanctioned and thereupon the regulation shall cease to have effect.

10 43. (1) With effect from the date on which the Central Ware- Repeal and
housing Corporation is established under section 3, the Agricultural savings.
18 of 1956. Produce (Development and Warehousing) Corporations Act, 1956, in
so far as it has not been repealed by the National Co-operative
Development Corporation Act, 1962, shall stand repealed.

15 (2) Notwithstanding such repeal,—

(a) the shares allotted and the share certificates issued by the Central Warehousing Corporation established under the repealed Act (hereinafter referred to as the said Corporation) shall be deemed to have been allotted and issued by the Corpora-
20 tion established under section 3 of this Act as if this Act had been in force on the day on which the shares were allotted and the share certificates were issued;

(b) every shareholder of the said Corporation shall become the holder of as many shares in the Corporation established under
25 section 3 of this Act as are equivalent in number and value to the shares held by him in the said Corporation;

(c) all moneys and other securities belonging to the National Warehousing Development Fund which, immediately before the said date, was maintained by the said Corporation shall stand
30 transferred to and be maintained by the Corporation established under section 3 of this Act;

(d) anything done or any action taken (including any appointment, nomination, delegation, rule or regulation made) under the repealed Act shall, in so far as it is not inconsistent
35 with the provisions of this Act, be deemed to have been done or taken under this Act;

(e) every share held by the said Corporation in a State Warehousing Corporation under the repealed Act shall be deemed to be a share held by the Corporation established under section 3 of

this Act in the corresponding State Warehousing Corporation deemed to be established under this Act;

(f) all rights, liabilities and obligations of the said Corporation, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Corporation established under section 3 of this Act; 5

(g) a State Warehousing Corporation established for a State under the repealed Act shall be deemed to be the State Warehousing Corporation established for that State under this Act. 10

THE SCHEDULE

(See section 36)

DECLARATION OF FIDELITY AND SECRECY

I, _____, declare that I will faithfully,
5 truly and to the best of my judgment, skill and ability execute and
perform the duties which are required of me as a director, officer,
employee or auditor (as the case may be) of the _____ Warehousing
Corporation and which properly relate to the office or position in the
said Corporation held by me.

10 I further declare that I will not communicate or allow to be com-
municated to any person not legally entitled thereto any information
relating to the affairs of the said Corporation nor will I allow any
such person to inspect or have access to any books or documents
belonging to, or in the possession of, the Corporation and relating to
15 the business of the Corporation.

Signature

Signature

Signature

*Signed before me*20 *Date*

STATEMENT OF OBJECTS AND REASONS

Under the Agricultural Produce (Development and Warehousing) Corporations Act, 1956, two inter-dependent bodies, namely, the National Co-operative Development and Warehousing Board and the Central Warehousing Corporation were established and they were under the administrative control of the Ministry of Food and Agriculture. Subsequently, as a result of the re-allocation of business among the Ministries, the two bodies came under the administrative control of two different Ministries, namely, the Ministry of Community Development and Co-operation and the Ministry of Food and Agriculture. In the interest of the better functioning of the two bodies and for administrative convenience, it has been decided that the two bodies should function independently under separate enactments. A Bill has already been introduced for establishing a separate National Co-operative Development Corporation in place of the existing Board. The present Bill seeks to provide for the establishment of a Central Warehousing Corporation and for each State, a State Warehousing Corporation.

Under this Bill, the Central Warehousing Corporation will continue to perform the same functions as the existing Corporation. The Central Government will be a shareholder to the extent of forty per cent. of the shares of the Corporation in the place of the National Co-operative Development Board, while the other shareholders of the existing Corporation will become the other shareholders of the new Corporation. The new Corporation will also maintain the Warehousing Fund. The existing State Warehousing Corporations shall be deemed to be the Warehousing Corporations established for the respective States under the new law.

NEW DELHI;

S. K. PATIL.

The 24th August, 1962.

FINANCIAL MEMORANDUM

The authorised share-capital of the Central Warehousing Corporation is Rs. 20 (twenty) crores. Under clause 4 of the Bill, the Central Government has to subscribe 40% of the share-capital issued at any time by the Central Warehousing Corporation. The Corporation has issued one lakh shares of the value of Rupees ten crores for subscription, out of which 40,000 shares have been subscribed for by the National Co-operative Development and Warehousing Board and these shares will be transferred to Central Government. A sum of rupees two crores has already been paid on these shares by the Board and the Central Government will have to pay the balance of rupees two crores as and when calls are made by the Corporation.

Future issues of share-capital by the Central Warehousing Corporation will be made only with the approval of the Central Government. Forty per cent. of such shares will have to be subscribed for by the Central Government and the non-recurring expenditure on this account will not exceed rupees four crores.

If any portion of the rest of the sixty per cent. of the share-capital now issued or that may be issued in future remains unallotted, it may be subscribed for by the Central Government and the State Bank of India in such proportion as may be agreed upon between them.

2. Under clause 5 of the Bill, the shares of the Central Warehousing Corporation have been guaranteed by the Central Government as to the re-payment of principal and the payment of the annual dividend. The Central Government have guaranteed the payment of a minimum dividend of 3½% on the shares of the Central Warehousing Corporation.

3. Under clause 14, the Central Government can give grants and loans to the Central Warehousing Corporation from time to time as it may deem fit. During the last four years, the annual average of loans advanced to the Corporation comes to about Rs. 2·5 lakhs.

4. Clause 15 of the Bill provides that the Central Warehousing Corporation shall maintain two Funds called the Central Warehousing Fund and the General Fund. The resources of the Warehousing

Fund will be utilised for advancing loans to the State Governments to enable them to subscribe to the share-capital of the State Warehousing Corporations and for advancing loans and granting subsidies to the State Warehousing Corporations or to the State Governments for the purpose of promoting the warehousing and storage of agricultural produce otherwise than through Co-operative Societies. During the last six years about Rs. 78 lakhs have been advanced to the State Governments as loan for enabling them to subscribe to the share-capital of the State Warehousing Corporations.

The resources of the General Fund will be utilised to meet the day-to-day expenses of the Central Warehousing Corporation to carry on its business activities and to carry out the purposes laid down in the Bill.

5. Clause 26 of the Bill provides for the control by the Central Government over the financial estimates of the Central Warehousing Corporation. Similarly the financial estimates of the State Warehousing Corporations are subject to the control of the State Governments as well as the Central Warehousing Corporation which subscribes fifty per cent. of the share-capital of State Corporations.

6. Clause 27 of the Bill provides for the guarantee by the appropriate Government of the repayment of principal and payment of interest on moneys borrowed by the Warehousing Corporations.

7. Clause 31 of the Bill provides for the audit of the accounts of the Corporations by a qualified auditor, to be appointed in consultation with the Comptroller and Auditor-General of India. Further, the clause also empowers the Comptroller and Auditor-General to carry out the audit of the accounts of the Corporations as and when considered necessary by him or upon a request by the appropriate Government.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 41 of the Bill empowers the Central Government in relation to the Central Warehousing Corporation and the State Government in relation to a State Warehousing Corporation to make rules to carry out the purposes of the Act. The matters in respect of which rules may be made are specified in sub-clause (2) and they relate to the manner of nomination and election of the directors of the Corporation concerned and of its executive committee, the term of office of and the manner of filling casual vacancies among the directors, the amount of the authorised capital of a State Warehousing Corporation within the limit specified in clause 19(1), the form of the annual statement of accounts to be furnished by a Corporation and other matters of a routine or administrative character.

Clause 42 of the Bill empowers a Warehousing Corporation to make regulations not inconsistent with the Act or the rules made thereunder for the purpose of giving effect to the provisions of the Act. The matters which may be provided for by regulations relate to procedural or administrative details.

The delegation of legislative power is thus of a normal character.

M. N. KAUL,
Secretary.

